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10 Attorneys for Defendants
11 KAISER ALUMINUM CORPORATION and KAISER
12 ALUMINUM & CHEMICAL CORPORATION

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 MOSS LANDING COMMERCIAL PARK
17 LLC

18 Plaintiff,

19 v.

20 KAISER ALUMINUM CORPORATION,
21 KAISER ALUMINUM & CHEMICAL
22 CORPORATION and DOES 1 through 100,

23 Defendants.

Case No. C 07-06072 RMW/PVT

**DEFENDANTS' SUPPLEMENTAL CASE
MANAGEMENT STATEMENT**

Date: MAY 23, 2008
Time: 10:30 AM
Judge: The Hon. Ronald M. Whyte

24 Defendants file this supplemental statement to briefly respond to the Supplemental Second
25 Case Management Statement filed by Plaintiff on May 20, 2008.

26 1. **KACC Environmental Compliance and Discharge Issues**

27 With respect to the Plaintiff's statements regarding KACC's compliance with applicable
28 environmental laws and regulations at the time it sold the Moss Landing Property, KACC states
that no state or federal agency has ever asserted that KACC was in violation of environmental
laws or regulations in effect when the Moss Landing property was sold to National Refractories in
1984.

With respect to the Plaintiff's arguments regarding the issues pending before the Delaware
District Court, including arguments regarding alleged lack of notice, suffice it to say that all of

1 the Plaintiff's arguments were rejected by the Delaware Bankruptcy Court.¹

2 **2. Scope of Discovery**

3 The Plaintiff asserts, as it did before the Delaware courts, that discovery from KACC is
4 necessary to understand "what Kaiser was putting into the waste piles." (Pl.'s Suppl. Sec. Case
5 Mgmt. Stat. 4:11.) And although environmental agency demands are the purported trigger for
6 this need, the Plaintiff has only provided a July 29, 2005 letter from the California Regional
7 Water Quality Control Board.

8 Despite the Plaintiff's statement that the information is necessary to understand what
9 KACC put into the landfills, Exhibit A to the Supplemental Second Case Management Statement
10 contains document requests that appear to go far beyond this need. Such requests include (a) all
11 SEC filings that refer to any litigation or environmental issues and conditions, (b) all documents
12 that relate to any litigation or threatened litigation pertaining to environmental issues, (c) all
13 documents that relate to air pollution controls, (d) all documents that pertain to building permits,
14 (e) all documents that pertain to workers' compensation claims related to exposure to waste or
15 industrial processes at the site, and (f) all documents that pertain to any application for insurance.

16 While the Defendants believe these requests are overbroad and beyond the scope of the
17 relief granted by the Delaware District Court, the scope of discovery does not need to be resolved
18 at the May 23, 2008 Case Management Conference. Rather, the Defendants respectfully request
19 that at the Case Management Conference, this Court establish (a) a deadline for the Defendants to
20 file an answer to the Amended Complaint, (b) a schedule for the limited discovery necessary for
21 the Plaintiff to respond to actions requested by governmental agencies, and (c) given the
22 Plaintiff's agreement (Pl.'s Suppl. Sec. Case Mgmt. Stat. 3:26; 4:1-3), waiver of the parties'
23 obligations under Federal Rules of Civil Procedure 26(a) and 26(f) pending the outcome of
24 Plaintiff's appeal of the Delaware Bankruptcy Court's order directing the Plaintiff to dismiss this
25 action. With respect to the scope of the Plaintiff's discovery, the Defendants propose that the
26 parties meet and confer to resolve any differences and only if an agreement cannot be reached file

27 _____
28 ¹ Although those issues are not before this Court, KACC notes that Plaintiff has
omitted certain key facts.

1 appropriate motions for later disposition by the Court.

2
3 Dated: May 22, 2008

Respectfully submitted,

4 JONES DAY

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6 By: /s/ Kelli A. Crouch

7 Kelli A. Crouch

8 Counsel for Defendants
9 Attorneys for Kaiser Aluminum Corporation
10 and Kaiser Aluminum & Chemical
11 Corporation LLC
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